



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2147

FAX (603) 271-6588

LETTER OF DEFICIENCY

WET #SC2003-0020



November 20, 2003

Robert & Nancy Merriman
Merriman Family Trust
987 Ocean Boulevard
Rye, NH 03870

RE: Wetlands Bureau Complaint File #2002-2496, Merriman Family Trust, NH Route 107, Seabrook Tax Map 2 / Lot 97.

Dear Mr. and Ms. Merriman:

As you are aware, on April 3, 2003, The Department of Environmental Services (DES) approved a wetlands permit at the above referenced property located on NH Route 107, identified on Seabrook Tax Map 2 as Lot 97. The approved wetlands permit was to fill 13,900 square feet of wetlands for the construction of a driveway with six (6) 12-inch culverts for access to buildable upland for a commercial property and temporarily impact 370 square feet for 7,620 sq. ft. of wetlands enhancement.

On November 5, 2003 and November 17, 2003, DES received complaints of possible violations at the property. The complaints allege that you have used unsuitable material for fill in freshwater wetlands. Attached are photos of the area showing the fill material and a DES Waste Management Division Environmental Fact Sheet pertaining to managing demolition and construction debris.

On November 6, 2003, DES conducted an inspection of the property and determined following:

1. Concrete, asphalt, metal, wood and household trash is being used for fill to construct the access road.
2. Siltation and erosion controls are not properly installed at the site. This is a violation of condition #5 of the approved wetlands permit which reads: Appropriate siltation and erosion controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized.

As explained in the DES Waste Management Division Environmental Fact Sheet, *the burial of demolition and construction debris ("C&D") waste without a solid waste management permit is limited to the cases listed below.*

1. *Fully cured concrete, brick, cement and other inert masonry materials, which are substantially free of protruding reinforcing materials and free of leachable contaminants or air pollutants [Ref. Env-Wm 302.03(b)(10)];*

2. *Fully cured asphalt which is not ground or pulverized [Ref. Env-Wm 302.03(b)(10)].*
3. *Leachfield repair residual, provided that the waste is placed at least 4 feet above the seasonal high water table and bedrock, and the burial site meets the minimum separation distances for leach bed trenches as specified in paragraph Env-Ws 1008.03(a) of the NHDES Subdivision and Individual Sewage Disposal System Design Rules [Ref. Env-Wm 2510.05)]; and*
4. *Abandoned underground structures, such as foundation walls, footings, pipes and culverts, provided that they are buried in-place; that they do not contain leachable contaminants, air pollutants, treated wood, insulation or general C&D waste; and that removal of the abandoned structure is not required by other local, state or federal regulations [Ref. Env-Wm 2510.06)].*

In each of the above noted cases, the universal facility requirements in Env-Wm 2700 must be met and permission by the property owner must be granted. In addition, the waste must be buried in a manner which precludes the development of sink holes and is otherwise protective of the environment, public health and safety. Clean natural soils only must be used to fill all voids within the waste disposal area. In addition, at least 2 compacted feet of clean soil must be placed over the entire disposal area, and the area must be graded and seeded or otherwise treated to prevent erosion. When the property exchanges hands, the new owners should be notified that the disposal site exists.

Important reminder: Never bury or burn any waste without obtaining all requisite approvals. Even if a solid waste management permit is not required, there may be other local, state or federal approvals which do apply.

Based on the above information, DES inspection and the photos of the site, DES requests that you take the following action:

1. Remove any metal, treated wood, and household trash from the fill area. Provide DES with copies of the receipts from an approved solid waste facility that receives the solid waste. **This work needs to be completed by November 28, 2003.**
2. Install silt fence at the toe of the slopes in accordance with approved wetlands plans and maintain silt fence throughout construction. Attached is a copy of the proper installation of silt fence. **This work needs to be completed by November 28, 2003.**

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

Please respond to this complaint by providing your comments in writing to the aforementioned file number within 20 days of the date of this letter. All documents submitted in response to this Letter of Deficiency should be addressed as follows:

David Price, Compliance Investigator
Wetlands Bureau
Department of Environmental Services
360 Corporate Drive
Suite 2
Portsmouth, NH 03801

If you have any questions please feel free to contact me at (603) 433-6183 or e-mail David Price at dprice@des.state.nh.us.

Sincerely,

COPY

Dori Wiggin
Coastal Supervisor
DES Wetlands Bureau

DAW/dap

CERTIFIED MAIL #7003 1010 0003 3557 2593

cc: Rene Pelletier, Manager, Land Resources Management Program
Mark Harbaugh, DES Legal Unit
John Chase, Chase Paving
Sue Foote, Seabrook Conservation Commission
Paul Garand, Seabrook Building Inspector
West Environmental
Millennium Engineering, Inc.
Cheryl McGary, DES SIS